

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

CHRISTOPHER M. STONE,

Petitioner,

vs.

Civil Action 2:13-cv-320
Judge Smith
Magistrate Judge King

STATE OF OHIO,

Respondent.

ORDER

On May 22, 2014, the Magistrate Judge recommended that the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be dismissed as untimely under 28 U.S.C. § 2244(d). *Report and Recommendation*, ECF 29. This matter is now before the Court on Petitioner's objection to that recommendation. *Objection*, ECF 37. For the reasons that follow, the *Objection* is **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

Petitioner argues that the First Amendment protects his right to file an untimely habeas corpus petition. *Objection*, PageID# 331. As he did before the Magistrate Judge, Petitioner also again represents that he wrote numerous letters to his attorney in an attempt to learn the status of his appeal. *Id.*, at PageID# 332. See also *Exhibits* attached to *Petition*. Petitioner alleges that, in October 2011, he began to suspect that no appeal had been filed on his behalf, a fact that was confirmed by Petitioner in December 2011. *Objection*, PageID#

332. As grounds for his untimely filing, Petitioner again points to his *pro se* status and lack of legal training, to the delay in obtaining information from the public defender, and a claimed denial of access to the courts. *Id.* at PageID# 333-334.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review of the record. *See also* Fed. R. Civ. P. 72(b). The First Amendment does not guarantee a right to file an untimely habeas corpus petition. The record also fails to support Petitioner's allegation that he was denied access to the courts or otherwise prevented from pursuing relief. The record does not establish that Petitioner either acted diligently in pursuing relief or fulfilled his obligation to monitor the status of his appeal.

The Magistrate Judge considered and rejected the arguments raised by Petitioner, and Petitioner offers no new grounds supporting his claim that this action is timely under 28 U.S.C. § 2244(d)(1)(D) or that the Court should equitably toll the running of statute of limitations. For the reasons detailed in the *Report and Recommendation*, the Court concludes that this action is barred by the one-year statute of limitations established by 28 U.S.C. § 2244(d).

Petitioner's *Objection*, Doc. No. 37, is **OVERRULED**. The *Report and Recommendation*, Doc. No. 29, is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED** as untimely filed.

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT**.

s/George C. Smith
George C. Smith, Judge
United States District Court